

for the purpose of constructing public roads."

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it *do* pass, and be not printed.

FAULK, Chairman.

# CONSTITUTIONAL AMENDMENTS.

## MAJORITY REPORT.

Committee Room,

Austin, Texas, April 14, 1903.

*Hon. Geo. D. Neal, President of the Senate.*

SIR: Your Committee on Constitutional Amendments, to whom was referred

Senate Joint Resolution No.—, Providing for a convention to frame a Constitution for the State of Texas,

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it *do not* pass.

PERKINS, Chairman.

## MINORITY REPORT.

Committee Room,

Austin, Texas, April 14, 1903.

*Hon. Geo. D. Neal, President of the Senate.*

SIR: We, a minority of your Committee on Constitutional Amendments, to whom was referred

Senate Joint Resolution No.—, Providing for a convention to frame a Constitution for the State of Texas,

Do not concur in the report of the majority, and beg to recommend that it *do* pass.

LIPSCOMB,  
HICKS,  
PERKINS,  
BEATY.

## NINTH DAY.

Senate Chamber,

Austin, Tex., Thursday, April 16, 1903.

Senate met pursuant to adjournment.

Lieutenant Governor Neal in the chair.

Roll call. Quorum present, the following Senators answering to their names:

Beaty.	Faubion.
Brachfield.	Faulk.
Cain.	Faust.
Davidson of	Grinnan.
DeWitt.	Hale.
Decker.	Hanger.
Douglass.	Harbison.

Harper.	Morris.
Henderson.	Patteson.
Hicks.	Perkins.
Hill.	Savage.
Lipscomb.	Sebastian.
Martin.	Stafford.
McKamy.	Wilson.
Mills.	

Absent.

Davidson of	Paulus.
Galveston.	Willacy.

Prayer by the Chaplain, Rev. I. S. Davenport.

Pending the reading of the Journal of yesterday.

On motion of Senator Savage, the same was dispensed with.

## MEMORIAL.

Senator Decker offered the following memorial:

### HISTORY OF CLARK SURVEY OF TEXAS PANHANDLE BOUNDARY.

(Printed in Journal by unanimous consent.)

Washington, April 14.—Arthur D. Kidder, who recently located the one hundredth meridian where it intersects Red River, on the Texas boundary, has been designated by the General Land Office to make the further investigations with regard to the Texas boundary questions which have been decided upon by the Interior Department. Of course, whatever may be the result of the findings of the Kidder expedition, it can not have the effect of changing the present boundaries of Texas, but unquestionably may develop facts upon which litigation may be based looking to a permanent settlement of all boundary uncertainty.

Mr. Kidder will establish an observation station at Higgins, in Lipscomb county; Texline, in Dallam county, and Monohan, in Ward county. These stations are for the purpose of determining astronomically the exact location, first, of the intersection of the one hundredth meridian with latitude 36 degrees and 30 minutes (theoretically, the northeast corner of the Panhandle); second, the intersection of the one hundred and third meridian with latitude 36 degrees and 30 minutes (theoretically, the northwest corner of the Panhandle); third, the intersection of the one hundred and third meridian with the thirty-second parallel of latitude, which, from the one hundred and third meridian to the Rio Grande constitutes, theoretically, the southern boundary between Texas and New Mexico.

The United States government, acting through the Department of the Interior,

intends to determine to a certainty the location of the various corners and monuments bearing on the boundaries between Oklahoma and New Mexico. It is reasonable to assume that should absolute and accurate astronomical observations determine that Texas is exercising sovereignty over a considerable territory belonging to New Mexico and Oklahoma, that action will be brought in the Supreme Court to establish and mark boundaries anew. Or Congress might elect to have a boundary established and permanently marked in connection with the State of Texas.

It is obvious, however, that whatever is to be done with regard to the boundary question, should be done before New Mexico and Oklahoma are admitted to statehood, for, whereas, at this time the matter to be adjudicated would be between Texas and the United States, hereafter it might lie between Texas and other parties. Unquestionably, if the boundary uncertainty is not settled before the admission of these Territories, Oklahoma and New Mexico, as States, would demand a boundary commission if they had reason to believe that Texas was exercising sovereignty over territory belonging to them.

As for the line from the intersection of the one hundredth meridian with Red River to the intersection with latitude 36 degrees and 30 minutes, the Land Office is certain that there would be a gain and a loss for Texas, which would substantially offset each other. But from the northeast corner of the Panhandle all around the State to El Paso, a distance of 611 miles as the boundary runs, the belief is that correct surveys will show Texas in possession of some 2,100 square miles of territory, about 526 of which belongs to Oklahoma and about 1,572 square miles of which belong to New Mexico. There is uncertainty about it, but Prof. Kidder is to ascertain the matter astronomically, so as to have the information a part of the records of the Land Office.

As for the motive of the government in determining the exact boundary of Texas, so far as Oklahoma and New Mexico are affected, that is a matter of conjecture. Senator Culberson's statement, which was read with great interest by the officials of the Land Office, made it clear that this latest projected survey is not authorized by the Act of 1901. Nevertheless, the government is not debarred from running the lines along the theoretical boundary established by statute first and confirmed by subsequent surveys, and ascertaining just where the boundary is. If the correspondent may suggest the meat of the controversy, if there is one,

it lies in the fact that from the northeast corner of the Panhandle around the boundary line to the Rio Grande there stretches a barbed wire fence nearly 900 miles long. It was erected by cattle corporations and individuals interested in the cattle industry, on local surveys to inclose lands purchased or leased from the State of Texas. This fence, having no legal status, practically describes the boundary of the State of Texas, for the obvious reason that all land this side of the fence is either assessed by Texas assessors as Texas land, or the cattle grazing on it are assessed as Texas cattle. In reality, the true boundary line on the western side of the Panhandle has never been completely run and established. If, as a matter of fact, this vast stretch of wire fence is located three miles west of the one hundred and third meridian and scientific observation so determines, the government is going to have that part of the fence moved to the true meridian, and no doubt the arbitrary demand to confine these fences along the latitude of 36 degrees and 30 minutes north, along the one hundred and third meridian, and along the 32d parallel of latitude will meet with resistance. The issue is bound to involve the ancient boundary question, as 900 miles fence on an ostensible boundary is not likely to be torn down until the court of last resort compels it. There is no reason to fear at this time that Texas is going to lose anything she in justice owns. If fences have been built to take in something like 1,300,000 acres of land which belong to Oklahoma and New Mexico, that is no fault of the State of Texas. Nevertheless, if any of the old monuments and boundary marks are found in this latest survey which may confirm the present impression of the government that any considerable quantity of United States land is included within the boundaries of Texas, as now understood, it may be assumed that the government may proceed to get it back, unless Congress shall obstruct operations.

The line forming the boundary of Texas from the intersection of the 103d meridian with Red River around the Panhandle and west to the intersection of the 32d parallel of latitude with the Rio Grande, has long been known to the Land Office, as "the lost boundary of Texas." Much has been written about it, and it has an interesting history.

The boundary along the 100th and 103d meridians originated in 1850. In 1835, Texas declared her independence of Mexico, and on December 29, 1845, was admitted to the Union. It then comprised parts of territory included now in New Mexico, Oklahoma, Kansas

and Colorado. In 1850, Texas sold to the United States for \$10,000,000 all her territory north of latitude 36 degrees and 30 minutes and west of the 103d meridian, as far south as the 32d latitude. In the act of Congress of September 9, 1850, effecting this purchase, the boundary here considered first appears. That act recites: "The State of Texas will agree that her boundary on the north shall commence at the point at which the meridian of 103 degrees west from Greenwich is intersected by the parallel of 36 degrees and 30 minutes north latitude, and shall run from said point due west to the meridian on 103 degrees west from Greenwich; thence her boundary shall run due south to the 32d degree of north latitude, thence on the said parallel of 32 degrees of north latitude to the Rio Grande at Norte." About eight years later, provision was made for running and marking this boundary by commissioners on the part of Texas and the United States. John H. Clark, who had previous experience as an astronomer and surveyor in the "far West" in ante-bellum days, was chosen surveyor on the part of the United States and William R. Sourry on the part of Texas.

It was agreed that the survey should begin at the intersection of the 32d parallel with the Rio Grande near El Paso, proceed east on that parallel to the 103d meridian, thence north on the 103d meridian to the northwest corner of the Panhandle, and thence east on parallel 36 degrees and 30 minutes to the 100th meridian. With some modifications, due to lack of water and difficulty of travel, this plan was carried out in the years of 1859 and 1860.

The station Frontera of the Mexican boundary survey, near El Paso, was accepted as the starting point for longitude, and its longitude transferred, by chaining and triangulation, about a dozen miles northward to the 32d parallel. The party then chained eastward along the 32d parallel for 211 miles, the calculated distance to the 103d meridian, and there set a monument. Its longitude was not then, nor has it been since, checked by astronomical observations. Having set this corner, the party started northward, but owing to the total absence of water, were compelled after proceeding about twenty miles and setting two monuments, to leave the line and go in search of water. Clark thereupon decided to ascend the Pecos river and measure offsets to the boundary, but the distance proved so great that he gave this up and proceeded to the northwest corner and set about carefully determining this important corner. An

astronomical camp was established in its vicinity on Rabbit Ear Creek, and while engaged with zenith telescope for latitude, and moon culminations for longitude, a surveying party was sent north about thirty miles to the 37th parallel to transfer the longitude found by Clark, in 1857, on that parallel southward to the parallel of 36 degrees and 30 minutes. This was done, and the northwest corner post of Texas, establishing as to its longitude by transfer from the 37th parallel, and as to latitude by independent astronomical observations.

Of the astronomical observation made by Clark to check this transfer, no use has ever been made. This done, Clark returned southward for 156 miles, chaining the distance and checking by sextant observations and building mounds or monuments to the number of twenty-three. The result of this season's work of 1859, so far as concerns the 103d meridian, was as follows:

Monument set at the south end, fixed in longitude by chaining about 225 miles from Frontera, on the Rio Grande, without astronomical check; monument set at north end, its longitude on that parallel being based on moon culminations observed in 1857; the running of the line northward from the south end twenty-four miles, and the erection of two monuments; the running of the line southward from the north end 156 miles and erection of twenty-three monuments, leaving 130 miles between unsurveyed and unmarked.

In the following season Clark began work on the 100th meridian, where it crosses the Canadian, and accepting, as directed, the monuments set there by Jones and Brown in 1859 to mark the 100th meridian, prolonged the line northward to latitude 30 degrees and 30 minutes, and there built a monument to mark the northeast corner of the Panhandle. To check this position, he prolonged the 100th meridian north about thirty-five miles to the 37th parallel, and found that the longitude of the northeast corner of Texas on the 100th meridian, according to Jones and Brown, was about 1,700 feet east of the 100th meridian, according to his own determination on the 37th parallel in 1857.

He then ran west on the parallel 36 degrees and 30 minutes, till forced to leave the line for water. He then went to the west end and surveyed east till he reached the point where earlier work had stopped, thus ending it. He then disbanded, returned to Washington, and proceeded to work up the results, draw the maps and make final report. The great war cloud was then hanging over Washington; there was great impatience to close up this work;

there appears to have been friction over seeming slowness in finishing it up. Accordingly, the work was abruptly stopped, unfinished, in January, 1862. So it remained for twenty years. In January, 1882, the Senate, by resolution, called for Clark's (work) report. The result is a document of 300 pages of field notes, correspondence, maps, etc., which, while giving much desired information, leaves much to be desired.

On March 3, 1891, Congress confirmed Clark's survey of latitude 32 degrees and 36 degrees and 30 minutes. Of the twenty-six monuments set by Clark, on the 103d meridian, only two have been reported to the General Land Office. These are on the banks of the Canadian river. The surveyors, Taylor and Fuss, who connected the public land surveys of New Mexico with these monuments, recognized them as boundary monuments, but made no determinations of their longitude.

The initial monument, at the northwest corner of Texas, has been sought for by subsequent surveyors, but without success. John J. Major sought for it in 1874, failed to find it, and "re-established" it, setting in a new one, which, there is excellent reason for believing, is more than two miles west of the Clark monument.

Richard O. Chaney, in 1881, set another monument at the theoretical northwest corner of Texas, and this, without finding either Clark's or Major's monument. Based upon these, and other surveys, not here mentioned, the Land Office concluded that the 103d meridian was laid down about three miles west of its true position, and it is so shown on the Land Office map of New Mexico, 1896.

Marcus D. Baker, of the Geological Survey, says:

"After examining with some care the information on the subject now available, I am now of opinion that this conclusion is not sustained by the evidence, and that until the longitude of some monument set by Clark has been topographically determined, the boundary line should be shown on maps as coincident with the 103d meridian."

Morning call concluded.

#### PENDING BUSINESS SUSPENDED.

The Chair laid before the Senate (Senate bill No. 5) the General Appropriation bill, and

On motion of Senator Douglass, pending business (Senate bill No. 5) was suspended, and the Senate took up, out of its order, House bill No. 3.

The Chair laid before the Senate, on its second reading,

House bill No. 3, A bill to be entitled "An Act to provide for the retirement of certain bonds of the State of Texas maturing the first of January, 1904, by issuing other bonds at a lower rate of interest in lieu thereof; providing for the execution of such other bonds; the manner of sale or exchange of the new bonds, and making an appropriation for expenses incurred under the provisions of this act,"

With the following committee amendment:

"Amend by striking out Section 2 of the written bill and insert in lieu thereof the following:

"Section 2. The Governor and State Treasurer shall exchange the new bonds for a like portion of the old bonds held by special State funds, and the balance of said new bonds shall be sold to the special State fund; provided, that \$12,000 thereof shall be sold to the permanent University fund."

On motion of Senator Douglass, the committee amendment was adopted.

Senator Hicks offered the following amendment:

"Amend page 3, line 20, by striking out the word 'fund,' and insert 'funds.'"

The amendment was adopted.

The bill was read second time, and passed to a third reading.

#### PENDING BUSINESS—GENERAL APPROPRIATION BILL.

The Chair laid before the Senate, as pending business, Senate bill No. 5, the General Appropriation bill.

##### PUBLIC BUILDINGS AND GROUNDS.

(Pending from yesterday.)

(30)

Senator Hicks offered the following amendment:

"Amend by adding after the word 'bookkeeper,' in line 13, page 14, the following: 'Who shall also act as stenographer for the State Revenue Agent.'"

The amendment was adopted.

(31)

Senator Douglass offered the following amendment:

"On page 15, in line 13, strike out '\$1,000' where it occurs, and insert '\$1,200' in lieu thereof."

The amendment was adopted.

(32)

Senator Hicks offered the following amendment:

"Amend page 15, by inserting between lines 15 and 16 the following: 'Salary of porter, \$360—\$360.'"

## ADJOURNMENT.

On motion of Senator Wilson, the Senate, at 10:30 o'clock a. m., adjourned until 10 o'clock a. m. tomorrow.

## APPENDIX.

## COMMITTEE REPORTS.

The following committee reports were offered:

## PUBLIC LANDS AND LAND OFFICE.

## MAJORITY REPORT.

Committee Room,  
Austin, Texas, April 16, 1903.

*Hon. Geo. D. Neal, President of the Senate.*

SIR: Your Committee on Public Lands and Land Office, to whom was referred

Senate bill No. 8, A bill to be entitled "An Act to provide for the sale of all the public free school and asylum lands and the timber thereon, and to protect said lands from free use and unlawful enclosure, and to repeal all laws in conflict herewith, and declaring an emergency,"

Have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it *do* pass, and that the bill be printed.

GRINNAN, Chairman.

## MINORITY REPORT.

Committee Room,  
Austin, Texas, April 16, 1903.

*Hon. Geo. D. Neal, President of the Senate.*

SIR: We, a minority of your Committee on Public Lands and Land Office, to whom was referred

Substitute Senate bill No. 8, A bill to be entitled "An Act to amend Sections 1, 2 and 3, of Chapter 125, Acts of the Regular Session of the Twenty-seventh Legislature, relating to the sale and purchase and manner of filing on State school and asylum lands,"

Do not concur in the report of the majority, and beg to recommend that it *do not* pass, and that the following substitute *do* pass.

SEBASTIAN,  
BRACHFIELD,  
GRINNAN.

## TENTH DAY.

Senate Chamber,

Austin, Texas, Friday, April 17, 1903.

Senate met pursuant to adjournment. Lieutenant Governor Neal in the chair.

Roll call. Quorum present, the following Senators answering to their names:

Brachfield.	Hicks.
Cain.	Lipscomb.
Decker.	Martin.
Douglass.	McKamy.
Faubion.	Mills.
Faulk.	Morris.
Faust.	Patteson.
Grinnan.	Paulus.
Hale.	Savage.
Hanger.	Sebastian.
Harbison.	Stafford.
Harper.	Willacy.
Henderson.	Wilson.

## Absent.

Beaty.	Davidson of
Davidson of	Galveston.
DeWitt.	Hill.
	Perkins.

Prayer by the Chaplain, Rev. I. S. Davenport.

Pending the reading of the Journal of yesterday,

On motion of Senator Mills, the same was dispensed with.

## EXCUSED.

Senators Hill and Davidson of DeWitt, as shown absent by the roll call, were in committee room.

On motion of Senator Hanger, Senator Beaty was excused from attendance upon the Senate for today and tomorrow on account of important business.

On further motion of Senator Hanger, Senator Patteson was excused from attendance upon the Senate for today and tomorrow on account of a death in his family.

On motion of Senator Lipscomb, Senator Paulus was excused from attendance upon the Senate on yesterday on account of important business.

Morning call concluded.

## RESOLUTIONS SIGNED.

The Chair (Lieutenant Governor Neal) gave notice of signing, and did sign, in the presence of the Senate, after their captions had been read:

House Concurrent Resolution No. 2, Inviting the survivors of the battle of San Jacinto to visit the capitol on Tuesday, April 21, 1903, the anniversary of that great event.